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FISCAL IMPACT STATEMENT

LS 7386

BILL NUMBER: HB 1604

NOTE PREPARED: Apr 14, 2009

BILL AMENDED: Apr 14, 2009

SUBJECT: Local Taxes.

FIRST AUTHOR: Rep. GiaQuinta

FIRST SPONSOR: Sen. Wyss

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Marion County CIB Funding:* The bill permits the Marion County City-County Council to increase: (1) the county supplemental auto rental excise tax from 4% to 6%; (2) the county admissions tax from 6% to 10%; and (3) the county innkeepers tax from 9% to 10%. It establishes a Marion County option to impose an off-premises alcoholic beverage tax at a rate not to exceed the state alcoholic beverage tax rate. It permits Indianapolis to impose a new commercial parking fee. It expires the tax increases and fee January 1, 2020. The bill deposits the revenue from these increases in a new sports and convention facilities operating fund for the Marion County Capital Improvement Board of Managers (Marion County CIB). It restricts the use of the new operating fund to paying usual and customary operating expenses that have a positive economic impact with respect to capital improvements operated by the Marion County CIB. It allows for an addition to the Marion County professional sports development area to include a hotel complex located within 0.5 miles from the Indiana Convention Center. It provides for the deposit of the state sales taxes from the additional area in the new Marion County CIB sports and convention facilities operating fund. It adds an offset to the captured taxes from the new tax area addition if local tax and fee revenue from the increases exceed \$21,000,000. The bill eliminates the capture of state sales taxes in the tax area addition not later than December 31, 2040, and makes an appropriation for the distribution of various local taxes and state sales tax in the additional Marion County professional sports development area.

Marion County CIB: The bill requires the Marion County CIB to present a long-range financial plan to the City-County Council before January 1, 2010. It requires the State Board of Accounts (SBOA) to audit annually the accounts, books, and records of the Marion County Capital Improvement Board. It requires the SBOA to do a financial and compliance audit of the Capital Improvement Board. It requires the Board to submit the SBOA reports to the Marion County legislative body. It requires the Marion County legislative body to review the SBOA reports at a public hearing. It requires the Board to post its proposed budget, its

adopted budget, and the SBOA reports on the Internet. It also requires the Marion County legislative body to approve the issuance of revenue and general obligation bonds by the Capital Improvement Board. The bill removes the Marion County Board of Commissioners from the review and approval of general obligation bonds and adds a requirement for the mayor's approval. The bill also adds two members to the Marion County CIB who are appointed by the Governor. It requires one of these appointments to be a resident of a county (other than Marion County) that has a food and beverage tax in effect that provides revenue to the Indiana Stadium and Convention Building Authority.

Fort Wayne-Allen County Convention and Tourism Authority: The bill changes the name of the Fort Wayne-Allen County Convention and Tourism Authority to the Allen County-Fort Wayne Capital Improvement Board of Managers (Allen County-Fort Wayne CIB). It provides that any food and beverage tax revenue in Allen County that is received after December 31, 2009, and is not needed for debt payments is to be transferred to the Allen County-Fort Wayne CIB and may be used only for projects commenced after December 31, 2008, and not for operational expenses. The bill changes the allocation of excess Allen County food and beverage tax revenue so that the Allen County-Fort Wayne Capital Improvement Board receives all the excess revenue. It provides that, after June 30, 2009, the Allen County-Fort Wayne CIB must approve any food and beverage tax pledge for bonds, loans, or leases. It also requires the executive director of the Allen County Memorial Coliseum to file an annual report of operations with the Allen County-Fort Wayne CIB. It also requires the executive manager of the Allen County-Fort Wayne CIB to file an annual report of operations with the Allen County-Fort Wayne CIB.

Allen County PSDA: The bill adds the facilities at the Indiana University-Purdue University at Fort Wayne (IPFW) campus to the Allen County professional sports development area (PSDA). It raises the \$5 per person state revenue cap for the Allen County and Fort Wayne professional sports development areas to \$8 per person. It also provides that the maximum amount of covered local and state taxes that may be captured in Allen County is \$3,000,000. The bill provides that Allen County receives the first \$2,600,000 of captured tax revenue each year for deposit in the supplemental coliseum expansion fund and the Allen County-Fort Wayne capital improvement board receives the remaining \$400,000.

Vanderburgh County Innkeeper's Tax: The bill provides that the part of the Vanderburgh County innkeeper's tax rate that is dedicated to pay the operating expenses of a convention center is reduced from 2% to 1% after December 31, 2014 (rather than after December 31, 2009, under current law). It also provides for a corresponding delay in the increase in the part of the Vanderburgh County innkeeper's tax rate that is deposited in the tourism capital improvement fund.

Vanderburgh County Food and Beverage Tax: The bill specifies that if the Vanderburgh County Council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, any excess food and beverage tax revenue that is not needed to pay any bonds, leases, or other obligations for a convention center shall be transferred to the fiscal officer of Evansville for deposit in an Evansville arena fund. It provides that money in the Evansville arena fund shall be used for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. It specifies that if the Vanderburgh County Council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the food and beverage tax: (1) does not terminate after the last of the bonds issued to finance improvements to the Vanderburgh County auditorium or auditorium renovations, and the last of any bonds issued to refund those bonds, have been completely paid; and (2) continues until the last of the bonds issued to finance the acquisition, construction,

and equipping of the Evansville arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid. It also repeals provisions specifying that the amounts received from the Vanderburgh County food and beverage tax shall be used to pay bonds issued to finance the construction of an airport terminal.

Monroe County Food and Beverage Tax: The bill permits Monroe County to impose a county food and beverage tax of 1% of the gross retail income received by a food and beverage merchant. It also establishes a local advisory commission to assist and coordinate efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax revenue.

Martinsville Food and Beverage Tax: The bill eliminates the expiration date for the Martinsville food and beverage tax by which the city of Martinsville may initiate projects funded by food and beverage tax revenues. It also permits Martinsville to fund sewer improvements with the Martinsville food and beverage tax.

Securitization of Parking Meter Revenue in Indianapolis: The bill permits Indianapolis to use parking meter revenue for costs associated with the acquisition, construction, renovation, operation, and maintenance of public infrastructure and improvements and securitize parking system revenues in the city.

Effective Date: Upon Passage; July 1, 2009; January 1, 2010.

Explanation of State Expenditures: *Department of State Revenue (DOR)-* The bill allows the county the option to collect the tax or for DOR to collect and process revenue collections. DOR administers, audits, and collects local taxes at approximately \$0.54 per \$100 of revenue. DOR could process the proposed tax within their existing level of resources.

Explanation of State Revenues: (Revised) *Marion County PSDA Expansion:* The bill expands the Marion County Professional Sports Development Area (PSDA) to include the Marriott Place hotel complex on West Street next to Victory Field. The PSDA expansion could potentially transfer \$570,000 in FY 2010, \$3.2 M in FY 2011, and \$6.0 M annually thereafter from the state General Fund to the Marion County CIB. The expansion of the PSDA must terminate by December 31, 2040. The bill limits the amount that may be captured from this expansion by reducing the annual capture amount by the amount that revenue from the Marion County sources authorized under this bill exceed \$21 M in the preceding fiscal year. The Marion County sources authorized under the bill are increases in the supplemental auto rental excise tax, the innkeepers tax, and the county admissions tax, a special alcohol beverage tax, and a commercial parking fee.

The FY 2010 and FY 2011 amounts are partial-year amounts based on opening dates for hotels and a restaurant at Marriott Place. Marriott Place will consist of a restaurant and four hotels, including the J. W. Marriott convention hotel. The restaurant and three smaller hotels are expected to open in March 2010, and the J. W. Marriott convention hotel is expected to open in February 2011. The expansion of the PSDA will apply only to Sales Tax generated at these facilities.

Currently, the Marion County PSDA includes Conseco Fieldhouse, the Indiana Convention Center, Lucas Oil Stadium, Victory Field, and the Colts' practice facility. The current PSDA is allowed to capture revenue from the state sales tax, state income tax, county option income tax, and county food and beverage tax. The captured revenue is utilized for debt payments relating to Conseco Fieldhouse, Lucas Oil Stadium, and the convention center. Current statute limits to \$16 M annually the state sales tax and state income tax revenue that may be captured by the existing PSDA. In FY 2008, state sales tax and state income tax revenue captured

by the PSDA totaled almost \$15.1 M.

(Revised) *Allen County PSDA Expansion and Capture Limit*: The bill adds to the Allen County PSDA facilities located at IPFW. In addition, the bill increases the state revenue capture limit for the Allen County PSDA from \$5 to \$8 per county resident, and establishes an overall capture limit for state revenue and county option income tax. The Allen County PSDA is allowed to capture state individual income tax revenue, state sales tax revenue, and county option income tax revenue. The state revenue capture limit is currently \$1,659,245, and the bill would raise that limit to \$2,654,792. In FY 2008, the Allen County PSDA met the current capture limit for the first time. The extent to which the Allen County PSDA is able to capture additional revenue under the new capture limit is unknown and depends on revenue growth in the existing PSDA as well as the additional revenue that IPFW facilities will yield.

The bill also provides for distribution of the captured revenue. It requires that Allen County receives the first \$2.6 M of captured tax revenue each year for deposit in the supplemental coliseum expansion fund and the Allen County-Fort Wayne capital improvement board receives the remaining \$400,000.

Explanation of Local Expenditures: (Revised) *Marion County CIB*: The bill adds two members to the CIB (increasing CIB membership from 9 to 11) beginning January 15, 2010. The two new board members are to be appointed by the Governor, with one residing in one of the donut counties that has adopted a food and beverage tax for the stadium and convention center expansion in Marion County.

The bill also requires the CIB to prepare a long-range financial plan during 2009 covering the 2010 to 2041 period. The plan must specify a schedule for retiring all debt outstanding on January 1, 2010; and an estimated budget for each year. The bill requires the State Board of Accounts to annually conduct an audit of the CIB and prepare a financial and compliance report. The bill also removes the Marion County Board of Commissioners from the review and approval of general obligation bonds and adds a requirement for the Mayor's approval.

Fort Wayne-Allen County Convention and Tourism Authority: This bill changes the name of the Fort Wayne-Allen County Convention and Tourism Authority to the Allen County-Fort Wayne Capital Improvement Board. The bill also requires the executive manager of the CIB to file an annual report of operations.

Use of Vanderburgh County Food and Beverage Tax (VCFBT): If the Vanderburgh County fiscal body were to adopt a resolution to continue the VCFBT for an arena project, the county treasurer would determine if any tax revenue were left over from bonds in existence on January 1, 2009, or earlier. If revenue was not committed to those prior bonds, the treasurer would transfer the excess revenue to the Evansville city controller. The city controller would place VCFBT revenue into the municipal arena fund. If the tax were continued for the arena, Evansville would be able to issue bonds or enter into leases for the project. These bonds could not exceed a term of 30 years.

If the county treasurer were to certify to the Treasurer of State that all bonds for improvements on the county auditorium had been paid in full, amounts received from the tax from the Treasurer of State would be placed into the municipal arena fund.

Evansville could also issue bonds in lieu of arena bonding for any special taxing district, agency, department, instrumentality, or law under which bonds may be issued, leases entered, and obligations incurred. Bonds for these purposes would have a term ending no later than 30 years after the first February 1 following the estimated date of the arena completion.

Explanation of Local Revenues: (Revised) *Marion County CIB Funding:* The total estimated revenue impact of the bill to the Marion County CIB is summarized in the table below. The revenue from the sources listed in the table is to be distributed to the Sports and Convention Facilities Operating Fund and used only for operating expenses of capital improvements that the CIB operates. The capture limit relating to the PSDA expansion described above under *Explanation of State Revenues* would reduce the PSDA capture amount depending on the yield from the commercial parking fee.

Sources (in millions)	FY 2010	FY 2011	FY 2012
State Taxes			
Marion County PSDA Expansion	\$0.6	\$3.2	\$6.0
Marion County Taxes/Fees			
Supplemental Auto Rental Tax Increase	2.2	2.5	2.6
Innkeepers Tax Increase	3.7	4.2	4.5
County Admissions Tax Increase	4.3	4.4	4.5
Alcohol Beverage Tax	8.4	9.2	9.2
Commercial Parking Fee	Indeterminable	Indeterminable	Indeterminable
Subtotal Marion County Taxes/Fees	\$18.6	\$20.3	\$20.8
Grand Total	\$19.2	\$23.5	\$26.8

Marion County PSDA: See *Explanation of State Revenues* for discussion of this change.

Marion County Taxes/Fees: The bill allows: (1) Marion County to increase the supplemental auto rental excise tax, the innkeepers tax, and the county admissions tax beginning July 1, 2009; (2) Marion County to impose a special alcohol beverage tax in Marion County which could take effect July 1, 2009; and (3) Indianapolis to impose a commercial parking fee. The rate increases, the alcohol beverage tax, and the commercial parking fee must expire on January 1, 2020. Revenue from the rate increases and the alcohol beverage tax in the first year of collection would depend on the effective date of the ordinance enacting the rate increases or the alcohol beverage tax. The estimates on the supplemental auto rental excise tax, the innkeepers tax, and the alcohol beverage tax assume 11 months of collections in FY 2010. Actual revenue from each of these taxes could be higher than estimated above to the extent that new business is attracted by new hotels in the downtown area and the convention center expansion.

(1) The bill allows the supplemental auto rental excise tax to be increased from 4% to 6%. The current 4% tax generated about \$4.6 M in FY 2008.

(2) The bill allows the innkeepers tax to be increased from 9% to 10%. The current 9% tax generated about \$36.2 M in FY 2008.

(3) The bill allows the county admissions tax to be increased from 6% to 10%. (Note: The tax is currently imposed on the price of admission to any event held in Lucas Oil Stadium, the Convention Center, Victory Field, or Conseco Fieldhouse.) The current 6% tax generated about \$6.5 M in FY 2008.

(4) The bill allows Marion County to impose a tax on retail sales of alcohol beverages for off-premises consumption. The tax rate must be imposed in increments of \$0.01 per gallon. The maximum tax rates

Marion County may impose are summarized in the table below.

Beverage	Maximum Rate Per Gallon
Beer & Hard Cider	\$0.11
Liquor (and Wine over 21% alcohol)	\$2.68
Wine (less than 21% alcohol), Mixed beverages (5% or less alcohol)	\$0.47
Liquid wort or malt	\$0.05

(5) The bill allows Indianapolis to impose a fee for parking at a commercial parking establishment to be collected and remitted by the operator of the establishment. The potential revenue yield of such a fee is indeterminable and would depend on the fee amount established.

(Revised) *Allen County Food and Beverage Tax Reserve Account*: This bill transfers all of the excess Allen County Food and Beverage Tax that is not needed to pay obligations (bond, loan, or lease) to the Allen County-Fort Wayne Capital Improvement Board. The board will then deposit these funds into a reserve account. Funds in the reserve account may not be withdrawn or transferred during the year they are received, except to make transfers to the county for obligations. The bill limits the CIB to using the excess revenue for a project initiated after December 31, 2008, and prohibits the CIB from using the excess revenue to pay operational expenses for any facilities of the municipality. The bill also enables the Board to transfer interest from the reserve account and amounts on deposit for more than 12 months to the Capital Improvement Fund. Beginning in FY 2010, the Board must approve any Food and Beverage Tax pledge for bonds, loans, or leases. Revenue from the Food and Beverage Tax totaled about \$5.5 M in FY 2008.

Vanderburgh County Innkeeper's Tax: This provision would delay, for five years, the revenue equivalent to a 1% rate that the tourism capital improvement fund was scheduled to receive after December 31, 2009. The bill would also delay the reduction (from a 2% rate to a 1% rate) of the amount deposited into the Convention Center Operating Fund (CCOF). Under current law, the amount of innkeeper's revenue deposited in the CCOF would be reduced by 1% after December 31, 2009. Under the bill, the reduction would be postponed until after December 31, 2014.

Vanderburgh County collected about \$3.3 M in innkeeper's taxes during FY 2008. The current tax rate is 8%. A 1% rate would equate to approximately \$408,000 of FY 2008 revenue.

Use of Vanderburgh County Food and Beverage Tax: Revenue from the VCFBT would continue to be collected if the conditions specified in the bill were fulfilled. VCFBT revenue is currently paying for bonds to cover costs of renovation and improvements to the county auditorium. The following table illustrates a recent collection history of the tax.

Vanderburgh County Food & Beverage Tax Revenues	
Fiscal Year	Tax Revenue
FY 2008	\$3.7 M
FY 2007	\$3.6 M
FY 2006	\$3.6 M
FY 2005	\$3.3 M
FY 2004	\$3.1 M
Five-Year Average	\$3.5 M

VCFBT revenues are currently being used to pay for bonding for the improvements to the county auditorium (renamed the Centre), with approximately \$23.735 M remaining in principal payments. The current debt service schedule for the Centre indicates payment will take nine and one-half additional state fiscal years to complete. The annual bond payment is approximate to the average revenue from the tax over the last five state fiscal years.

Monroe County Food and Beverage Tax: Assuming an ordinance effective date of upon passage, a 1% food and beverage tax in Monroe County could yield approximately \$0.9 M in CY 2009, \$2.4 M in CY 2010, and \$2.5 M in CY 2011. However, the actual revenue amounts would depend on the effective date of the ordinance.

It is estimated that 87.9% of all Monroe County food and beverage establishments are located within Bloomington. Therefore, if 87.9% of the revenue generated from the proposed countywide tax went to Bloomington, the city could see an estimated \$2.13 M in CY 2010 (assuming a full year of collections) and \$2.2 M in CY 2011. The remaining revenue would be retained by the county.

(Revised) *Martinsville Food and Beverage Tax:* The bill eliminates the 2015 deadline to begin projects funded by the Martinsville food and beverage tax and allows tax revenue to be used for sanitary sewer system projects. These changes could affect the future use of the tax revenue on authorized projects. Current statute limits use of the revenue to city hall renovation, police or fire station construction, sanitary sewer or wastewater treatment facility improvement, storm water drainage systems improvement, and other projects involving the city's water system or protecting the city's well fields.

(Revised) *Securitization of Parking Meters:* The bill permits Indianapolis to use parking meter revenue for costs associated with the acquisition, construction, renovation, operation, and maintenance of public infrastructure and improvements and other authorized purposes. The bill also defines a parking meter as a public facility for purposes of current statute relating to public-private agreements allowing Indianapolis to securitize parking meter revenue. The fiscal impact of this provision is indeterminable.

State Agencies Affected: DOR; Treasurer of State. DLGF, State Budget Agency, State Budget Committee.

Local Agencies Affected: Allen County; City of Fort Wayne; Fort Wayne-Allen County Convention and Tourism Authority; Vanderburgh County, City of Evansville; Marion County/Indianapolis; Monroe County.

Information Sources: *Indiana Handbook of Taxes, Revenues, and Appropriations*; City of Evansville Controller's Office, Indiana Economic Digest: www.indianaeconomicdigest.net.

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